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EXAMINER

HENNING, MATTHEW T

ART UNIT

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2131

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/099,931

**Applicant(s)**

BREMER, OLIVER

**Examiner**

MATTHEW T. HENNING

**Art Unit**

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8,10-15,17-22,24-28,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-15,17-22,24-28,33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

This action is in response to the communication filed on 3/11/2008.

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed 3/11/2008 have been fully considered but they are moot in view of the new grounds of rejection presented below.

All objections and rejections not set forth below have been withdrawn.

Claims 1, 3-8, 10-15, 17-22, 24-28, and 33-34 have been examined.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claims, as amended, recite “forwarding peer-to-peer content between two mobile phones communicating in a cellular network via a network infrastructure”. While the specification provides support for a “wireless” network, the examiner is unable to find support in the specification for a cellular network. The examiner is also unable to find support in the specification for forwarding peer-to-peer content between two mobile phones communicating in a cellular network. Furthermore, the applicant has failed to show where support for these newly added limitations can be found in the specification. As such, the specification is objected to for failing to provide proper antecedent basis for the claimed subject matter. See the rejection of the claims under 35 U.S.C. 112 1<sup>st</sup> Paragraph below.

***Claim Objections***

Claims 3-6 and 12 are objected to because of the following informalities:

Claims 3, 5 and 12 all recite “the wireless sender” or “the wireless recipient”, which both lack antecedent basis in the claim. The examiner will assume, for purposes of searching prior art, that these limitations were meant to read “the mobile phone sender” and “the mobile phone recipient” respectively. Claims 4 and 6 are objected to as they depend from the above objected to claims. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-8, 10-15, 17-22, 24-28, and 33-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims, as amended, recite “forwarding peer-to-peer content between two mobile phones communicating in a cellular network via a network infrastructure” or similar limitations regarding a cellular network. While the specification provides support for a “wireless” network, the examiner is unable to find support in the specification for a cellular network. The examiner is also unable to find support in the specification for forwarding peer-to-peer content between two mobile phones communicating in a cellular network. Furthermore, the applicant has failed to show where support for these newly

added limitations can be found in the specification. As such, the ordinary person skilled in the art would be unable to determine whether the applicant was in possession of the invention, as claimed, at the time of application. Therefore, the claims are rejected for failing to meet the written description requirement of 35 U.S.C. 112 1st Paragraph.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 6-8, 10-11, 13-15, 17, 19-21, 27-28, and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Safadi et al. (US Patent Application Publication Number 2002/0147686) hereinafter referred to as Safadi, and further in view of Bloebaum et al. (US Patent Number 7,149,534) hereinafter referred to as Bloebaum, and further in view of Hans-Jörg Vögel et al. ("GSM Switching, Services and Protocols: Second Edition") hereinafter referred to as Vögel.

Regarding claims 1 and 28, Safadi disclosed a method comprising: forwarding peer-to-peer content between two devices (Safadi Fig. 1 Elements 10 and 30) communicating in a wireless network via a network infrastructure (Safadi Fig. 1 Element 20 and paragraph [0032]), where a wireless sender (10) encrypts protected content or content encryption key (Safadi Paragraphs [0036] - [0037]) and a wireless recipient (30) consumes the protected content without requiring content personalization assistance from the network infrastructure of the wireless

1 network (See Safadi Paragraph 0044), and that the receiver device was a mobile phone (Safadi  
2 Paragraph [0033]), but Safadi failed to specifically teach that the sender device was a mobile  
3 phone; that the sender sends an initial message having an international mobile equipment  
4 identity, a mobile phone sender name, or mobile station international integrated subscriber digital  
5 network number. However, Safadi did state that the "transmitting device of the present invention  
6 includes, but is not limited to the Personal Versatile Recorder (10) as described hereinabove...or  
7 any device that can output information in the form of a digital or analog signal".

8 Bloebaum teaches a system wherein, through a cellular network, mobile phones are able  
9 to communicate content, such as applications or music, between the mobile phones (Bloebaum  
10 Fig. 1 and Col. 4 Lines 59-61).

11 It would have been obvious to the ordinary person skilled in the art at the time of  
12 invention to have employed the teachings of Bloebaum in the content sharing system of Safadi  
13 by implementing the transmitting device as a cell phone. This would have been obvious because  
14 the ordinary person skilled in the art would have been motivated to allow multimedia content to  
15 be shared between friends using their cell phones.

16 Vögel teaches that in GSM, which was a very well know and widely utilized mobile  
17 communications standard at the time of invention, communicating devices register with the  
18 network by sending the International Mobile Station Equipment Identity (IMEI) (Vögel Page 31  
19 Section 3.2.1).

20 It would have been obvious to the ordinary person skilled in the art at the time of  
21 invention to have employed the teachings of Vögel in the content sharing system of Safadi and  
22 Bloebaum, by having each cell phone provide its IMEI to the network in "an initial message".

1 This would have been obvious because the ordinary person skilled in the art would have been  
2 motivated to follow an widely accepted standard as well as to recognize obsolete, stolen, or  
3 nonfunctional equipment in the network.

4 Regarding claim 8, Safadi disclosed a wireless network comprising: at least two wireless  
5 terminals (Safadi Fig. 1 Elements 10 and 30) and a network infrastructure (20) for forwarding  
6 peer-to-peer content from one wireless terminal (10) to another wireless terminal (30) (Safadi  
7 Fig. 1 Element 20 and Paragraph [0032]); the at least two wireless terminals having a peer-to-  
8 peer forwarding/reception of digital right management protected content module configured for  
9 **either** encrypting **or** consuming protected content without content personalization assistance  
10 from the network infrastructure (See Safadi Paragraphs 0032, 0036-0037, and 0044), and that the  
11 receiver terminal was a mobile phone (Safadi Paragraph [0033]), but Safadi failed to specifically  
12 teach that the sender device was a mobile phone; that the peer-to-peer forwarding/reception of  
13 digital rights management protected content module of each terminal is configured for either  
14 sending or receiving an initial message having an international mobile equipment identity, a  
15 mobile phone sender name, or mobile station international integrated subscriber digital network  
16 number. However, Safadi did state that the "transmitting device of the present invention  
17 includes, but is not limited to the Personal Versatile Recorder (10) as described hereinabove...or  
18 any device that can output information in the form of a digital or analog signal".

19 Bloebaum teaches a system wherein, through a cellular network, mobile phones are able  
20 to communicate content, such as applications or music, between the mobile phones (Bloebaum  
21 Fig. 1 and Col. 4 Lines 59-61).

1           It would have been obvious to the ordinary person skilled in the art at the time of  
2 invention to have employed the teachings of Bloebaum in the content sharing system of Safadi  
3 by implementing the transmitting device as a cell phone. This would have been obvious because  
4 the ordinary person skilled in the art would have been motivated to allow multimedia content to  
5 be shared between friends using their cell phones.

6           Vögel teaches that in GSM, which was a very well know and widely utilized mobile  
7 communications standard at the time of invention, communicating devices register with the  
8 network by sending the International Mobile Station Equipment Identity (IMEI) (Vögel Page 31  
9 Section 3.2.1).

10           It would have been obvious to the ordinary person skilled in the art at the time of  
11 invention to have employed the teachings of Vögel in the content sharing system of Safadi and  
12 Bloebaum, by having each cell phone provide its IMEI to the network in "an initial message".  
13 This would have been obvious because the ordinary person skilled in the art would have been  
14 motivated to follow an widely accepted standard as well as to recognize obsolete, stolen, or  
15 nonfunctional equipment in the network.

16  
17           Regarding claim 15, Safadi disclosed a wireless terminal (10 or 30) comprising: one or  
18 more modules for operating in a wireless network having another wireless terminal (10 or 30)  
19 and a network infrastructure (20) for forwarding peer-to-peer content from the wireless terminal  
20 (10) to the other wireless terminal (30) (Safadi Fig. 1 Element 20 and paragraph [0032]); a peer-  
21 to-peer forwarding/reception of digital rights management protected content module configured  
22 for either encrypting, consuming, or a combination thereof, protected content without content



1 personalization assistance from the network infrastructure (See Safadi Paragraphs 0032, 0036-  
2 0037, 0042 and 0044) and that the receiver terminal was a mobile phone (Safadi Paragraph  
3 [0033]), but Safadi failed to specifically teach that the sender device was a mobile phone; that  
4 the peer-to-peer forwarding/reception of digital rights management protected content module of  
5 each terminal is configured for either sending or receiving an initial message having an  
6 international mobile equipment identity, a mobile phone sender name, or mobile station  
7 international integrated subscriber digital network number. However, Safadi did state that the  
8 "transmitting device of the present invention includes, but is not limited to the Personal Versatile  
9 Recorder (10) as described hereinabove...or any device that can output information in the form  
10 of a digital or analog signal".

11 Bloebaum teaches a system wherein, through a cellular network, mobile phones are able  
12 to communicate content, such as applications or music, between the mobile phones (Bloebaum  
13 Fig. 1 and Col. 4 Lines 59-61).

14 It would have been obvious to the ordinary person skilled in the art at the time of  
15 invention to have employed the teachings of Bloebaum in the content sharing system of Safadi  
16 by implementing the transmitting device as a cell phone. This would have been obvious because  
17 the ordinary person skilled in the art would have been motivated to allow multimedia content to  
18 be shared between friends using their cell phones.

19 Vögel teaches that in GSM, which was a very well know and widely utilized mobile  
20 communications standard at the time of invention, communicating devices register with the  
21 network by sending the International Mobile Station Equipment Identity (IMEI) (Vögel Page 31  
22 Section 3.2.1).

1           It would have been obvious to the ordinary person skilled in the art at the time of  
2 invention to have employed the teachings of Vögel in the content sharing system of Safadi and  
3 Bloebaum, by having each cell phone provide its IMEI to the network in "an initial message".  
4 This would have been obvious because the ordinary person skilled in the art would have been  
5 motivated to follow an widely accepted standard as well as to recognize obsolete, stolen, or  
6 nonfunctional equipment in the network.

7  
8           Regarding claim 3, Safadi, Bloebaum and Vögel disclosed that the mobile phone  
9 recipient sends a device certificate having a public key to the wireless sender (See Safadi  
10 Paragraphs 0036 and 0041).

11           Regarding claims 4, 11, 17, and 34, Safadi, Bloebaum and Vögel disclosed that that the  
12 mobile phone sender personalizes the protected content or content encryption key for the mobile  
13 phone recipient (See Safadi Paragraphs 0036-0037 and 0044).

14           Regarding claims 6, 13, and 20, Safadi, Bloebaum and Vögel disclosed that the mobile  
15 phone recipient verifies forwarded protected content received from the mobile phone sender by:  
16 verifying the device certificate of the mobile phone sender (See Safadi Paragraph 0043); and  
17 applying a private key of the mobile phone recipient in order for the recipient to consume the  
18 protected content (See Safadi Paragraphs 0036-0037 and 0044).

19           Regarding claims 7, 14, and 21, Safadi, Bloebaum and Vögel disclosed that the protected  
20 content is digital rights management protected content (See Safadi Paragraph 0034).

21           Regarding claims 10, and 19, Safadi, Bloebaum and Vögel disclosed that the peer-to-peer  
22 forwarding/reception of DRM protected content module of the mobile phone recipient sends a

1 device certificate having a public key to the mobile phone sender (See Safadi Paragraphs 0036-  
2 0037 and 0042).

3 Regarding claim 27, Safadi, Bloebaum and Vögel disclosed that the initial message  
4 includes a device certificate to the mobile phone recipient (See Safadi Paragraph 0042).

5  
6 Claims 5, 12, 18, 22, 26, and 33 are rejected under 35 U.S.C. 103(a) as being  
7 unpatentable over Safadi, Bloebaum and Vögel as applied to claims 4, 8, and 17 respectively  
8 above, and further in view of Mott et al. (US Patent Number 6,170,060) hereinafter referred to as  
9 Mott.

10 Regarding claims 5, 12, and 18, Safadi, Bloebaum and Vögel disclosed that the steps for  
11 personalizing include: encrypting the content or content encryption key using a public key of the  
12 mobile phone recipient (See Safadi Paragraphs 0036-0037); and sending the protected content or  
13 content encryption key and a device certificate of the mobile phone sender to the wireless  
14 recipient (See Safadi Paragraphs 0042 and 0044), but failed to disclose signing encrypted content  
15 or content encryption key using a private key of the mobile phone sender, or sending the  
16 protected content with a device certificate of the sender.

17 Mott teaches that a digital signature should be appended to downloaded content in order  
18 to be able to verify the data (See Mott Col. 11 Paragraph 2).

19 It would have been obvious to the ordinary person skilled in the art at the time of  
20 invention to employ the teachings of Mott in the content distribution system of Safadi, Bloebaum  
21 and Vögel by including a signature of the content with the content. This would have been  
22 obvious because the ordinary person skilled in the art would have been motivated to provide a

means for the recipient to verify the integrity of the data. Further, it was well known in the art at the time of invention that the certificate of a digital signor could be included with the signed object for transmission and therefore it would have been obvious to the ordinary person skilled in the art at the time of invention to have done so.

Regarding claim 22, the combination of Safadi, Bloebaum, Vögel and Mott disclosed a method comprising: forwarding a protected content or content encryption key from a first mobile phone to a second mobile phone (Safadi Fig. 1 Element 20 and paragraph [0032] and Bloebaum Col. 4 Lines 59-61) in a cellular network having a network infrastructure (Safadi Fig. 1 Element 20 and paragraph [0032]); sending a digital rights management device certificate containing a public digital rights management key from the second mobile phone to the first mobile phone (See Safadi Paragraph 0041); verifying the public digital rights management key by the first mobile phone (See Safadi Paragraph 0041); personalizing digital rights management content or content encryption key by encryption using a public key of the second mobile phone (See Safadi Paragraphs 0036-0037 and 0044); signing encrypted digital rights management content or content encryption key using a private digital rights management key of the first mobile phone (See the rejection of claim 5 above and Mott Col. 11 Paragraph 2); sending encrypted and signed digital rights management content or content encryption key together with a digital rights management device certificate of the first mobile phone from the first mobile phone to the second mobile phone (See the rejection of claim 5 above and Mott Col. 11 Paragraph 2); verifying the digital rights management device certificate of the first mobile phone by the second mobile phone (See Safadi Paragraph 0043); and applying a private digital rights management key of the second mobile phone, if the private digital rights management key of the first mobile

1 phone is verified, in order for the second mobile to consume the protected content without  
2 content personalization assistance from the network infrastructure of the cellular network(See  
3 Safadi Paragraph 0044).

4 Regarding claim 26, see Safadi Paragraph 0042.

5 Regarding claim 33, see the rejection of claims 29-32 above.

6 Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the  
7 combination of Safadi, Bloebaum, Vögel and Mott as applied to claim 22 above, and further in  
8 view of Gustafsson (US Patent Number 6,424,841).

9 Safadi, Bloebaum, Vögel and Mott disclosed sending encrypted and signed digital rights  
10 management content to the first terminal and verifying the same in the first terminal (See the  
11 rejection of claim 22 above), but failed to disclose sending confirmation or error messages.  
12 However, Safadi, Bloebaum, Vögel and Mott did disclose that the communications were  
13 between cell phones in a cellular network (Bloebaum Fig. 1 and Col. 4 Lines 59-61).

14 Gustafsson teaches that in a mobile phone system, acknowledgment messages should be  
15 provided to the sender of a message by the recipient (See Gustafsson Col. 2 Paragraphs 3-4).

16 It would have been obvious to the ordinary person skilled in the art at the time of  
17 invention to employ the teachings of Gustafsson in the content distribution system of Safadi and  
18 Mott by having the receiver either acknowledge proper receipt of the content or send an error  
19 message to the sender. This would have been obvious because the ordinary person skilled in the  
20 art would have been motivated to ensure proper receipt of the content.

### 21 ***Conclusion***

22 Claims 1, 3-8, 10-15, 17-22, 24-28, and 33-34 have been rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW T. HENNING whose telephone number is (571)272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew T Henning/

Primary Examiner, Art Unit 2131